

1 CEDENO

2 They would ask me questions. Sometimes they
 3 would come to me directly with a problem, I
 4 got suspended, I got terminated. Once that
 5 is done, I would do the next step, what you
 6 see here. I open a case, which is then
 7 followed up with a meeting with management,
 8 and I try to resolve the issue.

9 Q. Okay. If it doesn't resolve?

10 A. If we reach an impasse, we start the
 11 process for arbitrations, which is the case
 12 gets filed, paperwork get drawn on and the
 13 first step of that is mediation.

14 Q. Okay.

15 A. Mediation is where the hotel, with the
 16 union, with their negotiations try to resolve
 17 the issue without going to arbitration. If
 18 that's achieved, it is put in the form of
 19 writing, and the agreement is signed by both
 20 parties; that is the end.

21 In the case when we do not reach an
 22 agreement, then the case goes forward, which
 23 is called the grievance board, and the
 24 grievance board is made up of all the hotels,
 25 New York Trades Board Council. With the

1 CEDENO

2 union, the grievance board comes in, and the
 3 panel votes whether their case has enough to
 4 go forward to arbitration or not.

5 If the case passes, and the member is
 6 assigned an attorney, the attorney reviews
 7 the case file and could subpoena witnesses or
 8 other documents he or she feels is necessary,
 9 and then the case will have a date for
 10 arbitration where it's heard by an
 11 arbitrator. If the case is denied, that's the
 12 end of the case.

13 Q. So after the meeting that you had with
 14 Rajan Lai on or around March 2008, were there
 15 any other meetings?

16 A. There was.

17 Q. Can you please tell us when that
 18 meeting took place?

19 A. The exact date, I don't remember, but
 20 it was sometime after that, the March meeting
 21 where the hotel was meeting with the union to
 22 discuss some of the problems that had
 23 occurred, or come across during their
 24 opening. And at one of those meetings, I
 25 brought up the issue of Mr. Rivera and

1 CEDENO

2 A. That's when I filed the case for
 3 arbitration.

4 Q. I guess you continued to stay involved
 5 in the case after that point?

6 A. Yes.

7 Q. In what capacity?

8 A. Well, I was the business agent that
 9 filed the case, so I have to be there with
 10 them when they go to arbitration.

11 Q. Did you go to the arbitration?

12 A. Yes, I did.

13 MR. SALTZMAN: Mr. Fausto, can
 14 we have some water.

15 MR. ZAPATA: Sure. Let's take
 16 a break. Five minutes, ten minutes?

17 MR. SALTZMAN: Five minutes.
 18 (Whereupon a brief recess was
 19 taken.)

20 Q. So when the case went to arbitration,
 21 did Mr. Lai testify?

22 A. Yes.

23 Q. Were you present when he testified?

24 A. I believe I was, yes.

25 Q. Do you know what reason Mr. Lai stated

<p>1 CEDENO 2 for not allowing Mr. Rivera to work as a 3 bartender at one of the front bars? 4 A. If I'm not wrong, he stated that they 5 were not qualified. 6 Q. Did he state what the basis of that 7 belief was? 8 A. At the arbitration? 9 Q. Yes, sir. 10 A. No, I don't think he did. If my 11 memory recalls, that's when the arbitrator 12 questioned him directly. 13 Q. And what did you hear? 14 A. From who; what the arbitrator said? 15 Q. What did Lai say? 16 A. He just said that he felt they were 17 not qualified, and I remember the arbitrator 18 questioned him on how did he come to that 19 determination. 20 I can't remember what was his exact 21 response to that at the time. 22 Q. Leon Flanagan, do you know who he is? 23 A. Yes. 24 Q. Who is he? 25 A. He is a bartender.</p>	<p>Page 29</p> <p>1 CEDENO 2 A. In what capacity? 3 Q. Aside from talking to Rajan Lai about 4 the grievance issued by Mr. Rivera, did you 5 speak to anybody else that represented the 6 Plaza with respect to the grievance? 7 A. Yes, as I stated earlier, when there 8 was a meeting between the hotel and the 9 union, with Michael Simo, there was, I'm 10 sorry, I'm trying to remember the name, I 11 know one was Guy Iveshi at the hotel, and the 12 other gentleman's name was Martin. I 13 apologize, I can't remember Martin's last 14 name. He was also present. 15 Q. Do you know what Guy Iveshi's title 16 is? 17 A. He represented the owners. 18 Q. And Martin? 19 A. Martin represented Fairmont, if I'm 20 not wrong. 21 MR. ZAPATA: Let me just take 22 one minute. 23 (Whereupon a brief recess was taken.) 24 Q. When you spoke to Rajan Lai on or 25 around March of 2008 about the grievance that</p>
<p>1 CEDENO 2 Q. Was he employed at the Plaza Hotel as 3 a bartender in 2005? 4 A. Yes. 5 Q. Was he recalled to the Plaza in 2008? 6 A. Yes. 7 Q. Do you know if he was permitted to 8 work at one of the front bars at the Plaza 9 Hotel? 10 A. He was. 11 Q. And is it fair to say that Carlos 12 Rivera and Leon Flanagan were similarly 13 situated in 2008 in terms of their titles? 14 A. Yes. 15 Q. Do you know Leon Flanagan's 16 background, his ethnic background? 17 A. He is Irish. 18 Q. Do you know what color skin he has? 19 A. White. 20 Q. Do you know how old he is, like the 21 ballpark? 22 A. I would say Leon is about my age, 23 early 40's. 24 Q. Did you speak to anybody else from the 25 Plaza with respect to this grievance?</p>	<p>Page 30</p> <p>1 CEDENO 2 was initiated by Carlos Rivera, and he told 3 you that Carlos River was not qualified, and 4 he had spoken to another manager that had 5 been at the Plaza in 2005, did he identify 6 who that other manager was? 7 A. He did. He did identify who that is 8 but I can't remember his name right now. 9 MR. ZAPATA: Okay, I have no 10 further questions. 11 EXAMINATION BY 12 MR. MCLANE: 13 Q. I have couple questions. Mr. Cedeno, 14 my name is William McLane. I'm an attorney 15 with the law firm Littler Mendelson, P.C., 16 and I represent the defendants in this 17 matter. I have a couple of questions 18 regarding your testimony today. 19 You testified that the hotel had made 20 an offer to Mr. Rivera and Mr. Tejada 21 regarding some cash payment to them, that if 22 they either left the job or stayed in the 23 position that they were in; do you recall 24 that? 25 A. Yes.</p>

<p style="text-align: right;">Page 33</p> <p>1 CEDENO</p> <p>2 Q. Was that offer in writing?</p> <p>3 A. Yes, it was.</p> <p>4 Q. Was the portion of the offer, where</p> <p>5 you testified that if they didn't accept</p> <p>6 those two options, that they would be</p> <p>7 returned to front bartender status, was that</p> <p>8 in writing?</p> <p>9 A. No, it was not.</p> <p>10 Q. Why wasn't it; do you know?</p> <p>11 A. I don't know.</p> <p>12 Q. Just take a look at what was marked as</p> <p>13 Cedeno 1. I don't know if it's still in</p> <p>14 front of you or not.</p> <p>15 A. Yes.</p> <p>16 Q. And the meeting report portion, that's</p> <p>17 your handwriting on the second page?</p> <p>18 A. Yes.</p> <p>19 Q. While we're at it, is the first page</p> <p>20 in your handwriting, as well?</p> <p>21 A. Yes.</p> <p>22 Q. Do you know whose handwriting appears</p> <p>23 on page three?</p> <p>24 A. No.</p> <p>25 Q. Is it normal to have attached to a new</p>	<p style="text-align: right;">Page 35</p> <p>1 CEDENO</p> <p>2 mid writing?</p> <p>3 A. Yes.</p> <p>4 Q. You could have been interrupted?</p> <p>5 A. Could be a number of things, another</p> <p>6 questions asked. Since I don't have the</p> <p>7 option of someone to write notes for me...</p> <p>8 Q. Would you have taken notes of every</p> <p>9 conversation you had with Mr. Rivera</p> <p>10 regarding this grievance?</p> <p>11 A. Every conversation?</p> <p>12 Q. Yes.</p> <p>13 A. No.</p> <p>14 Q. Would you consider the conversation</p> <p>15 where you took those notes to be a formal</p> <p>16 conversation?</p> <p>17 A. That's correct.</p> <p>18 Q. Did you have any other formal</p> <p>19 conversation with Mr. Mr. Rivera regarding</p> <p>20 this grievance?</p> <p>21 A. When you ask "formal conversation,"</p> <p>22 are you talking about in my office?</p> <p>23 Q. Whatever you consider a formal</p> <p>24 conversation, I mean that conversation. We</p> <p>25 agreed, where you took those notes was a</p>
<p style="text-align: right;">Page 34</p> <p>1 CEDENO</p> <p>2 case report, the management's position on a</p> <p>3 particular potential grievance?</p> <p>4 A. Yes.</p> <p>5 Q. Go ahead.</p> <p>6 A. Because my report gets filed away to a</p> <p>7 legal department, and they make their own</p> <p>8 notes and other additions, and they put it</p> <p>9 into the file.</p> <p>10 Q. So once you process the new case</p> <p>11 report, it's then sent on to legal for</p> <p>12 review?</p> <p>13 A. Yes.</p> <p>14 Q. And if possible, legal will contact</p> <p>15 someone in management at the hotel?</p> <p>16 A. That's correct.</p> <p>17 Q. Just, again, looking at the second</p> <p>18 page of that. Mr. Zapata had you read</p> <p>19 portions of it. Looking at this document,</p> <p>20 does it look to you like it's complete? In</p> <p>21 other words, does it look to you that it may</p> <p>22 have been altered, some words may have taken</p> <p>23 out?</p> <p>24 A. No.</p> <p>25 Q. Is it practice for you to stop writing</p>	<p style="text-align: right;">Page 36</p> <p>1 CEDENO</p> <p>2 formal conversation?</p> <p>3 A. That's correct.</p> <p>4 Q. Are there other types of meetings that</p> <p>5 you consider formal meetings where a member</p> <p>6 does not come into the office and file?</p> <p>7 A. The meeting at the hotel, at the HRA</p> <p>8 Department, if there were formal meetings</p> <p>9 with the HRA director, yes.</p> <p>10 Q. So I take it you do on-site visits at</p> <p>11 the hotel?</p> <p>12 A. That's correct.</p> <p>13 Q. If you do an on-site visit when you're</p> <p>14 talking to rank and file, that not a formal</p> <p>15 meeting?</p> <p>16 A. That's correct.</p> <p>17 Q. How many formal meetings did you have</p> <p>18 with Mr. Rivera regarding this grievance?</p> <p>19 A. I believe there were two.</p> <p>20 Q. Where was the second one?</p> <p>21 A. In the HRA office.</p> <p>22 Q. Who was at that one?</p> <p>23 A. Mr. Rivera, myself, Mr. Tejada and Mr.</p> <p>24 Rajan.</p> <p>25 Q. And was that where an offer was made</p>

1 CEDENO
 2 to Mr. River and Mr. Tejada?
 3 A. I'm sorry?
 4 Q. There was an offer made at the hotel
 5 to accept some money in lieu of leaving their
 6 position or as an option some money to stay
 7 in the positions that they were recalled in?
 8 A. No.
 9 Q. What was the purpose of the second
 10 formal meeting?
 11 A. The second meeting was to bring the
 12 grievance to the hotel to let them know that
 13 the gentlemen had filed the grievance.
 14 Q. Is that the meeting where Mr. Lai
 15 indicated that the plaintiff and Mr. Tejada
 16 were not qualified?
 17 A. That's correct.
 18 Q. Did you have an opportunity to read
 19 the impartial chairman's position on the
 20 grievance?
 21 A. Yes.
 22 Q. When was the last time you look at
 23 that?
 24 A. Last Friday.
 25 Q. Would agree the impartial chairperson

1 CEDENO
 2 that first formal meeting that he believed
 3 that the hotel seniority position had
 4 anything to do with his age?
 5 A. I'm sorry, can you restate that.
 6 Q. Same question as the last one
 7 regarding his ethnicity. Let's mention age;
 8 did you think that age played a role?
 9 A. I can't remember.
 10 Q. You do remember having a conversation
 11 where he mentioned that the ethnicity played
 12 a role in him not being placed as a front
 13 bartender?
 14 A. Yes.
 15 Q. And the second meeting with the
 16 plaintiff and Mr. Lai at the hotel, did you
 17 take any notes at that meeting?
 18 A. Yes.
 19 Q. And were those notes produced in
 20 accordance with the subpoena served at the
 21 meeting?
 22 A. I don't know.
 23 MR. SALTZMAN: All notes that
 24 were made by Mr. Cedeno have been
 25 produced.

1 CEDENO
 2 summarized the testimony that was given to
 3 him at the deposition?
 4 A. Yes.
 5 Q. And he accurately summarized the
 6 testimony?
 7 A. Yes.
 8 Q. Was there anything summarized by the
 9 arbitrator that was not correct?
 10 A. Not to my recollection.
 11 Q. In your formal meeting with
 12 Mr. Rivera, where you went for arbitration
 13 for the new case report, you took your
 14 information that the hotel had misqualified
 15 his seniority because of his ethnicity.
 16 A. Mr. Rivera mentioned that, but I don't
 17 know if that was in my office or if there was
 18 a conversation with me at the on-site visit
 19 to the hotel.
 20 Q. If he had mentioned that in a formal
 21 meeting where you took notes, would that be
 22 something in your mind important enough to
 23 reduce to writing?
 24 A. Not necessarily.
 25 Q. And did Mr. Rivera indicate during

1 CEDENO
 2 MR. MCLANE: Okay.
 3 Q. At the meeting with Mr. Lai, was the
 4 issue of Mr. Rivera's ethnicity raised?
 5 A. Yes.
 6 Q. And in what context?
 7 A. I mentioned it.
 8 Q. To whom?
 9 A. To Mr. Lai.
 10 Q. What did you say exactly to Mr. Lai?
 11 A. I said Mr. Lai, this appears to be
 12 discrimination of some sort on the surface.
 13 Q. What else?
 14 A. Because I personally saw the
 15 bartenders that he hired, and I looked at
 16 Mr. Rivera and Mr. Tejada and they had
 17 mentioned it to me, and I said this appears
 18 on the surface that you discriminated because
 19 of their race.
 20 Q. What did Mr. Lai said?
 21 A. He laughed and he said it had nothing
 22 to do with that.
 23 Q. Who was present?
 24 A. Mr. Rivera, Mr. Tejada, myself and Mr.
 25 Lai.

1 CEDENO
 2 Q. And did you respond to Mr. Lai's
 3 response to the raised issue?
 4 A. Yes, I told him he better be careful
 5 what he is doing. It does appear good on the
 6 surface.
 7 Q. What was the basis of your belief that
 8 this appeared to be somehow discriminatory?
 9 A. I looked, we looked at Mr. Flanagan,
 10 who was a white male, who was a recall
 11 member, he is not held back in any way, shape
 12 or form from requesting a front bar position.
 13 Then we have two other bartenders, who are of
 14 Hispanic origin, who made the same request
 15 and are denied, and looked at who is
 16 currently there, and they are all white or
 17 female. They are all male or female
 18 ethnicity (sic), I'm sorry.
 19 Q. And these conversations occurred
 20 before the arbitration?
 21 A. That's correct.
 22 Q. Was this issue of Mr. Rivera's
 23 ethnicity raised at the arbitration?
 24 A. I didn't.
 25 Q. Why not?

1 CEDENO
 2 Q. Did Mr. Flanagan come to you to
 3 complain that he was being recalled as a
 4 service bartender?
 5 A. No.
 6 Q. Do you know if he ever complained to
 7 anyone about being a service bartender?
 8 A. Not to my knowledge.
 9
 10
 11
 12 Q. Mr. Cedeno, Mr. Zapata handed to you
 13 what is previously marked as P 4; have you
 14 seen this document before?
 15 A. What is this document?
 16 Q. This is the list of the bartenders at
 17 the Plaza prior to its closing.
 18 A. Oh, I'm sorry. This is the list of
 19 the bartenders.
 20 Q. And looks like a date on the bottom
 21 left, assuming it's an American date,
 22 November 6, 2008?
 23 A. Yes, that's correct.
 24 Q. Can we mark this as Cedeno 3.
 25 (Whereupon, the aforementioned List of

1 CEDENO
 2 A. At the time we were dealing with the
 3 contract.
 4 Q. Contract violation of his seniority
 5 had something to do with his ethnicity?
 6 A. Can you rephrase.
 7 Q. You said you were dealing with the
 8 contract issue of his seniority; in other
 9 words, his seniority was breached by the
 10 hotel?
 11 A. Correct.
 12 Q. Did Mr. Rivera indicate to you that he
 13 believed that that breach had something to do
 14 with his ethnicity?
 15 A. Yes.
 16 Q. Do you know why?
 17 A. Because my issue was based on the
 18 seniority and that was clearly my issue on
 19 the case.
 20 Q. When Mr. Flanagan was recalled to the
 21 hotel, is it your understanding that he was
 22 recalled as a service bartender in the Palm
 23 Court?
 24 A. All the bartenders were recalled under
 25 the same title.

1 CEDENO
 2 bartenders was marked Cedeno Exhibit 3, as of
 3 this date by the reporter.)
 4 Q. The court reporter just handed you
 5 what she has marked as Cedeno Exhibit 3; have
 6 you ever seen this document before?
 7 A. Yes.
 8 Q. What is this document?
 9 A. This is the list of the members, the
 10 bartenders and barbacks prior to the closing.
 11 Q. And under the heading titled
 12 "Department," there are several different
 13 departments there, would you agree?
 14 A. That's correct.
 15 Q. And Mr. Rivera is listed as private
 16 dining department; do you see that?
 17 A. Yes.
 18 Q. Is that accurate?
 19 A. No.
 20 Q. Do you know who composed this
 21 document?
 22 A. The hotel did.
 23 Q. When would you have first seen this
 24 list?
 25 A. I saw this in conversations prior to

Page 45

1 CEDENO
 2 the hotel reopening.
 3 Q. And what did you do to inform the
 4 hotel that that list was incorrect?
 5 A. Incorrect as far as what?
 6 Q. Well, is this list correct?
 7 A. As far as where the department is?
 8 Q. As far as anything.
 9 A. No, this his is not correct.
 10 Q. What did you do to inform the hotel
 11 that this list was incorrect?
 12 A. Nothing.
 13 Q. Prior to today, when was the last time
 14 you spoke to Mr. Rivera?
 15 A. I believe, if I'm not accurate,
 16 Mr. Rivera called me sometime in January, and
 17 I didn't speak to him. I heard his voice
 18 message that told me that I was possibly
 19 going to be subpoenaed for his case.
 20 Q. Had you ever had any conversation with
 21 him about this case?
 22 A. As far as when?
 23 Q. As far as any time?
 24 A. No.
 25 Q. Do you know what this case is about?

Page 47

1 CEDENO
 2 questions about anything. You want to
 3 take five minutes to see, because this
 4 is it. My e-mail stated let's go on
 5 with the business of the union,
 6 because as far as this case, he will
 7 not come back for any other
 8 deposition.
 9 Is that on the record?
 10 THE REPORTER: Yes.
 11 EXAMINATION BY
 12 MR. ZAPATA:
 13 Q. About how old is Ebelio Tejada?
 14 A. I have no idea. You want me to guess?
 15 Q. If you had to guess, how old he was...
 16 A. I would say Ebelio is about my age, in
 17 his early 40's, in his early 40's.
 18 Q. Do you know if Rajan Lai still works
 19 at the Plaza Hotel?
 20 A. He does not.
 21 Q. Do you know where he works?
 22 A. The last I heard he is in Canada
 23 somewhere.
 24 Q. When did you hear that?
 25 A. Maybe a week or two before he left the

Page 46

1 CEDENO
 2 A. Briefly.
 3 Q. What's your brief understanding of
 4 this matter?
 5 A. That Mr. Rivera is suing the hotel.
 6 Q. Do you know why?
 7 A. I believe it's on the basis of
 8 discrimination.
 9 Q. Do you know anything else about that?
 10 A. No.
 11 Q. As a result of the impartial
 12 chairman's decision of the arbitration, was
 13 Mr. Rivera made whole of economic losses as
 14 far as being misplaced from the hotel?
 15 A. Yes, as far as the arbitration.
 16 Q. Do you know at the time of the
 17 arbitration whether Mr. Rivera had been
 18 placed back as a front barback?
 19 A. I'm sorry.
 20 Q. Bad question. Prior to the
 21 arbitration, do you know if Mr. Rivera had
 22 been placed back in the Rose Room or
 23 Champagne Bar?
 24 A. Not to my knowledge.
 25 MR. SALTZMAN: Any other

Page 48

1 CEDENO
 2 hotel.
 3 Q. Do you know where he is employed by
 4 any chance?
 5 A. No, I do not.
 6 Q. You just testified that when you had
 7 the second meeting with Mr. Rajan Lai
 8 regarding Mr. Carlos Rivera's grievance, that
 9 you raised the possibility that there may
 10 have been discrimination, you said Rajan Lai
 11 laughed; what position did Rajan Lai hold
 12 when you had that conversation?
 13 A. He was the human resource director for
 14 the hotel.
 15 Q. Can you please tell us on or around
 16 when this conversation took place?
 17 A. Sometime after Mr. Rivera's and Mr.
 18 Tejada's office meeting sometime in March.
 19 Q. Do you know if there was ever any
 20 investigation on the part of the Plaza in
 21 connection with what you said regarding
 22 discrimination?
 23 A. Not to my knowledge.
 24 Q. Why did you say that you believe that
 25 it appeared to be discriminatory that

<p>1 CEDENO</p> <p>2 Mr. Rivera was not permitted to work at the 3 front bar?</p> <p>4 MR. MCLANE: Objection; asked 5 and answered.</p> <p>6 MR. SALTZMAN: You can answer.</p> <p>7 A. I said it appeared because no one 8 actually made the statement, no one said I 9 didn't hire or I didn't move Mr. Tejada or 10 Mr. Rivera to the front bar because they're 11 Hispanic, so that's why I said appears.</p> <p>12 Q. What's the basis?</p> <p>13 MR. MCLANE: Objection.</p> <p>14 MR. SALTZMAN: You can answer.</p> <p>15 A. It did appear when I looked at 16 Mr. Flanagan, and then I looked at who was at 17 the front bar ethnicity, I couldn't see any 18 other legitimate reason, and they, Mr. Rivera 19 and Mr. Tejada, had raised that, and 20 personally I had to agree, but I didn't have 21 any proof professionally, so I just moved on 22 the seniority issue.</p> <p>23 MR. ZAPATA: I have no further 24 questions.</p> <p>25 MR. MCLANE: I have one more.</p>	<p>Page 49</p> <p>1 CEDENO</p> <p>2 by the hotel's attorney the accuracy 3 of the document Cedeno 3, and I was 4 asked if this document was correct or 5 not, and I stated it wasn't. It 6 wasn't as far as it listed the 7 departmental seniority.</p> <p>8 The reason it was not important 9 and was not mentioned at the meeting 10 when we recalled the classifications 11 is we don't go by the department 12 seniority, we go by the job 13 classification seniority. So going 14 back to fix the department seniority, 15 it doesn't matter. All that mattered 16 was the classification.</p> <p>17 MR. SALTZMAN: Take a moment to 18 see if anyone wants to follow up with 19 a question.</p> <p>20 MR. ZAPATA: Just to be clear, 21 the meeting where you first saw the 22 document that's been identified as 23 Cedeno Number 3, what was the purpose 24 of that meeting?</p> <p>25 MR. MCLANE: Objection. I'm</p>
<p>1 CEDENO</p> <p>2 (CONTINUED ON THE NEXT PAGE.)</p> <p>3</p> <p>4 EXAMINATION BY</p> <p>5 MR. MCLANE:</p> <p>6 Q. Do you know who made the decision to 7 return Mr. Rivera to the Palm Court?</p> <p>8 MR. ZAPATA: To the where?</p> <p>9 MR. MCLANE: To the Palm Court.</p> <p>10 A. No, I do not.</p> <p>11 MR. SALTZMAN: Thank you. Such 12 deposition is closed and witness is 13 discharged.</p> <p>14 As we closed, Mr. Cedeno 15 informed me that one of his answers 16 would require a little amplification 17 so that the record is complete.</p> <p>18 In furtherance to give this 19 testimony today, and since we were 20 still here, the attorneys and the 21 court reporter, we're taking time to 22 respond fully to one of the questions.</p> <p>23 Mr. Cedeno, would you like to 24 amplify one of your answers?</p> <p>25 MR. CEDENO: Sure. I was asked</p>	<p>Page 50</p> <p>1 CEDENO</p> <p>2 not sure if it's ever been stated that 3 he saw that at a particular meeting 4 for the first time.</p> <p>5 MR. ZAPATA: I'll strike that.</p> <p>6 All right, no further questions.</p> <p>7 MR. SALTZMAN: Thank you 8 everybody. Now I believe it's closed 9 and we're going to leave.</p> <p>10 (Whereupon, at 11:43 a.m., the 11 examination of this witness was 12 concluded.)</p> <p>13</p> <hr/> <p>14 EDWARD CEDENO</p> <p>15</p> <p>16</p> <p>17 Subscribed and sworn to before me 18 this _____ day of _____ 2011.</p> <p>19</p> <p>20</p> <hr/> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

		Page 53	Page 55
		PAGE	
1	CEDENO		1 CEDENO
2	EXHIBITS		2 ERRATA SHEET
3			3 CORRECTION
4	CEDENO EXHIBITS:	11	4 _____
5	EXHIBIT EXHIBIT		5 _____
6	1 Case Produce	11	6 _____
7	2 Industrywide Collective		7 _____
8	3 Bartending Agreement	12	8 _____
9	3 List of Bartenders	43	9 _____
10			10 _____
11			11 _____
12	INDEX		12 _____
13	EXAMINATION BY	PAGE	13 _____
14	MR. ZAPATA	4, 47	14 _____
15	MR. MCLANE	32, 50	15 _____
16			16 _____
17			17 _____
18			18 _____
19			19 _____
20			20 _____
21			21 _____
22			22 _____
23			23 _____
24			24 _____
25			25 _____
		Page 54	
1	CEDENO		
2	CERTIFICATE		
3			
4	STATE OF NEW YORK)		
	: SS.:		
5	COUNTY OF KINGS)		
6			
7	I, VANESSA HARRIS, a Notary Public for and		
8	within the State of New York, do hereby certify:		
9	That the witness whose examination is		
10	hereinbefore set forth was duly sworn and that such		
11	examination is a true record of the testimony given		
12	by that witness.		
13	I further certify that I am not related to		
14	any of the parties to this action by blood or by		
15	marriage and that I am in no way interested in the		
16	outcome of this matter.		
17	IN WITNESS WHEREOF, I have hereunto set my		
18	hand this day of March, 2011.		
19			
20			
21	_____ VANESSA HARRIS		
22			
23			
24			
25			

Exhibit “D”

Page 1

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 -----X

5 CARLOS RIVERA,

6 4 Plaintiff,
7
8 5 -against- Civil Action No:
9 6 1:10-cv-06661(WHP)

10 7
11 8 PLAZA ACCESSORY OWNER LP, EL-AD
12 9 PROPERTIES NY LLC, CPS 1 REALTY LP LLC,
13 10 AND FHR (N.Y.) LLC,

14 11 Defendants.
15 16 -----X

16 17 EXAMINATION BEFORE TRIAL of ANTHONY
17 18 EVANGELISTA taken by the Plaintiffs, held
18 19 at the offices of Fausto E. Zapata, Jr.,
19 20 P.C., on June 20, 2011, at 9:00 p.m.,
20 21 before a Notary Public of the State of New
21 22 York.

22 23 *****
23 24 BARRISTER REPORTING SERVICE, INC.
24 25 120 Broadway
25 26 New York, N.Y. 10271
26 27 212-732-8066

<p>1 2 APPEARANCES: 3 4 THE LAW OFFICES OF FAUSTO E. ZAPATA, JR., P.C. 5 Attorneys for Plaintiff 277 Broadway 6 Suite 501 New York, New York 10007 7 BY: FAUSTO E. ZAPATA, JR., ESQ. (212)766-9870 Fz@fzapatalaw.com 9 10 LITTLER MENDELSON Attorneys for Defendants One Newark Center 12 1085 Raymond Boulevard, 8th floor Newark, New Jersey 07102 13 BY: WILLIAM McLANE, ESQ.</p>	<p>Page 2</p> <p>1 A. Evangelista 2 ANTHONY EVANGELISTA, 3 Having been first duly sworn before 4 a Notary Public of the State of New 5 York, was examined and testified as 6 follows: 7 8 EXAMINATION BY 9 MR. ZAPATA: 10 Q. Please state your name for the record. 11 A. Anthony Evangelista. 12 Q. Where do you reside? 13 A. 8 Yong An Dong Li, Jian Guo Men Wai 14 Avenue, Chaoyang District, Beijing, China 15 100022. 16 Q. Good morning, Mr. Evangelista. 17 A. Good morning. 18 Q. Can you please state your full name for the record? 19 A. Anthony Frank Evangelista. 20 Q. Mr. Evangelista, where are you 21 currently employed? 22 A. I am employed in Beijing, China. 23 Q. Who is your employer?</p>
<p>1 2 STIPULATIONS 3 IT IS HEREBY STIPULATED AND AGREED by and between the 4 attorneys for the respective parties hereto, that: 5 All right provided by the C.P.L.R., and Part 221 of 6 the Uniform Rules for the Conduct of Depositions, 7 including the right to object to any question, except 8 as to form, or to move to strike any testimony at 9 this examination is reserved; and in addition, the 10 failure to object to any question or to move to 11 strike any testimony at this examination shall not be 12 a bar or waiver to make such motion at, and is 13 reserved for, the trial of this action. 14 This deposition may be sworn to by the witness being 15 examined before a Notary Public other than the Notary 16 Public before whom this examination was begun, but 17 the failure to do so or return the original of this 18 examination to counsel, shall not be deemed a waiver 19 of the rights provided by Rule 3116 of the C.P.L.R., 20 and shall be controlled thereby. 21 The filing of the original of this deposition is 22 waived. 23 IT IS FURTHER STIPULATED, that a copy of this 24 examination shall be furnished to the attorney for 25 the witness being examined without charge.</p>	<p>Page 3</p> <p>1 A. Evangelista 2 Fairmont Hotels and Resorts. 3 Q. How long have you worked with 4 Fairmont Hotels and Resorts? 5 A. About four years and two and a half 6 years right out of school so about six and 7 a half years altogether. 8 Q. What year did you start working with 9 Fairmont Hotels? 10 A. My first job out of school which was 11 in 2001. January of 2001. 12 Q. In what capacity were you hired? 13 A. I was a management trainee. 14 Q. Did you work continuously or has 15 there been -- 16 MR. McLANE: Object to the 17 form. You can answer. 18 A. No. I left Fairmont and then did 19 other things and then came back to 20 Fairmont. 21 Q. When did you come back to Fairmont? 22 A. Let me see. I think it was October 23 of 2007. 24 Q. When you worked at the Fairmont 25 between 2001 and approximately 2003, 2004</p>

<p style="text-align: right;">Page 6</p> <p>1 A. Evangelista 2 did you have the same position throughout 3 that timeframe? 4 A. No. 5 Q. Your first time as management 6 trainee your title changed, correct? 7 A. Right, that's correct. 8 Q. It changed to what? 9 A. Then I was promoted to assistant 10 stewarding manager. 11 Q. Can you please describe the duties 12 that you performed as a stewarding manager? 13 Did you say assistant steward manager? 14 A. Assistant steward, yes. I was 22 15 years old. 16 Q. Can you describe the duties that you 17 performed while you worked as an assistant 18 steward manager? 19 A. Yes. I was responsible for getting 20 equipment such as silverware, knives, 21 forks, other silver-type products. I was 22 responsible for garbage removal; I was 23 responsible for banquet events as far as 24 cleanup and setup. Things like this. 25 Basically I was in charge of mostly</p>	<p style="text-align: right;">Page 8</p> <p>1 A. Evangelista 2 floor and kind of direct traffic and make 3 sure people had drinks in their hands, make 4 sure tables were clean, make sure the flow 5 of the outlet was going well and just a 6 contact on the floor in case anyone needed 7 anything. 8 Q. Do you know who Carlos Rivera is? 9 A. Yes. 10 Q. When did you first meet Carlos 11 Rivera? 12 A. The exact date I couldn't tell you 13 but probably some point around then when I 14 went into the Oak Bar. 15 Q. What position did Mr. Rivera hold 16 during the time that you worked at the Oak 17 Bar between 2002 and 2003? 18 A. Well, I can't -- I know that he was 19 -- in the Oak Bar he was a bartender. He 20 was tending bar. I don't know the exact 21 job classification because I didn't do 22 anything administratively. I didn't do 23 payroll and I didn't do schedules so I 24 don't know but on the floor he was tending 25 bar.</p>
<p style="text-align: right;">Page 7</p> <p>1 A. Evangelista 2 dishwashers, garbage men and silver 3 polishers. 4 Q. What department did you work in? 5 A. Food and beverage. 6 Q. Did you hold any other titles while 7 you were employed at the Plaza -- I mean, 8 strike that. While you were employed with 9 Fairmont between 2001 and approximately 10 2003, 2004 did you hold any other titles 11 aside from what you've told us? 12 A. Yes. 13 Q. What other title did you hold? 14 A. I did stewarding for about a year, 15 and then I was moved into the Oak Bar and 16 Oak Room and I was an assistant manager 17 there as well. 18 Q. Can you please tell me the timeframe 19 when you worked at the Oak Bar/Oak Room? 20 A. I was thinking it was between 2002 21 to 2003. 22 Q. Can you please describe the duties 23 that you performed when you worked there? 24 A. Sure. I was a floor manager so my 25 basic role, my only role, was to be on the</p>	<p style="text-align: right;">Page 9</p> <p>1 A. Evangelista 2 Q. That was on a consistent basis? 3 MR. McLANE: Objection to 4 the form. You can answer. 5 A. I believe so. 6 Q. Now, just so that we're clear for 7 the record, between 2001 when you started 8 working at Fairmont and 2003, 2004 when you 9 continued to work at the Fairmont what work 10 location did you work at? 11 A. The Plaza Hotel, 59th Street and 12 Fifth Avenue. 13 Q. Now, you said that you started to 14 work again with the Plaza in late 2007, 15 correct? 16 A. Yes. 17 Q. In what capacity did you work at the 18 Plaza at that time? 19 A. My role was beverage director or my 20 title was beverage director. 21 Q. Can you please describe the duties 22 you performed as beverage director? 23 A. Sure. I was responsible for two 24 areas: The Rose Club and the Champagne Bar. 25 My duties were mostly operational. Making</p>

<p style="text-align: right;">Page 10</p> <p>1 A. Evangelista 2 sure that we had liquor, making sure that 3 we had a good cocktail and wine program, 4 running the floor, day-to-day operations, 5 scheduling. Things of that nature. Being 6 on the floor and being the face of the two 7 bar areas.</p> <p>8 Q. Were you involved at all with 9 respect to the hiring of the bartenders 10 that were appointed to work at the Rose 11 Club or the Champagne Bar in 2007, 2008?</p> <p>12 A. I made recommendations for people 13 that I thought would be good bartenders and 14 then they went through the interview 15 process with my boss and then HR. They did 16 the regular interviewing process so some 17 people made it and some people didn't.</p> <p>18 Q. Were you familiar with the 19 collective bargaining agreement at -- let 20 me ask it again.</p> <p>21 A. I'm not familiar with all the 22 details of it. I know it's very, very long 23 and involved but I was aware of it and 24 having worked in a union hotel before I did 25 know about it, yes.</p>	<p style="text-align: right;">Page 12</p> <p>1 A. Evangelista 2 there were any recall rights for 3 anybody in 2007 but you can go 4 ahead and answer, Anthony.</p> <p>5 A. Recall rights, not really. Not 6 specifically. I just assumed that they 7 would have the same rights as they had when 8 they left or when the hotel closed down.</p> <p>9 Q. Let's talk about before the hotel 10 closed down. What role, if any, did 11 seniority play with respect to the 12 bartenders?</p> <p>13 A. Well, I wasn't there when the hotel 14 closed, but what I know about is seniority 15 played a role in the scheduling. Mostly 16 scheduling and bidding for the slots and 17 schedule.</p> <p>18 Q. Can you please elaborate?</p> <p>19 A. Sure. Well, a manager would make a 20 schedule depending on business needs and 21 then that would be bided out to the 22 colleagues according to seniority. So if 23 person X had the longest tenure then they 24 would look at the schedule and pretty much 25 pick what shift they wanted to pick or what</p>
<p style="text-align: right;">Page 11</p> <p>1 A. Evangelista 2 Q. What was your understanding with 3 respect to the individuals that had worked 4 at the Plaza Hotel prior to its closing in 5 2005 that were being recalled to work at 6 the Plaza when it reopened?</p> <p>7 A. Can you repeat that again.</p> <p>8 Q. What was your understanding as to 9 what rights, if any, the individuals that 10 were recalled to work at the Plaza who had 11 already been there in 2005 -- what was your 12 understanding as to what rights, if any, 13 these individuals had with respect to their 14 recall rights?</p> <p>15 MR. McLANE: I'm going to 16 object to the form. Go ahead.</p> <p>17 Q. I'll ask it again, Anthony. It 18 wasn't a good question. Did the 19 individuals that had recall rights that 20 were hired by the Plaza to return to work 21 in 2007 and 2008, were you familiar at all 22 with any of the recall rights that these 23 individuals had?</p> <p>24 MR. McLANE: Let me just 25 object first to the extent that</p>	<p style="text-align: right;">Page 13</p> <p>1 A. Evangelista 2 shift they wanted to have and then they 3 would go down the list. The person with 4 the least seniority would really not have 5 much of a choice and would have to do 6 whatever wasn't taken at that point.</p> <p>7 Q. Now, just so that we're clear for 8 the record, this is -- you're talking about 9 the timeframe between 2001 and 2003 or '4, 10 correct?</p> <p>11 A. Well, yes. But I just want to make 12 clear I really wasn't involved 13 administratively. I wasn't allowed to 14 begin in any type of responsibility in that 15 way because I was too junior and too young. 16 For me what really mattered was on the 17 floor. I didn't have any idea why people 18 were placed where. I knew seniority and I 19 knew it was a big thing but that was not 20 something that I got involved with at all. 21 My main role was to direct the outlets once 22 everyone was there. So I didn't have any 23 admin duties.</p> <p>24 Q. Now, were you familiar with the 25 measures that the Plaza Hotel took with</p>

<p style="text-align: right;">Page 14</p> <p>1 A. Evangelista 2 resect to recruiting candidates to work at 3 the Plaza as bartenders for I guess 4 beginning in 2008? 5 A. Was I familiar with the measures. 6 Yes, I think there might have been some ads 7 placed. There were a lot of referrals like 8 I know this person; I know that person. 9 Things like that. Normal recruiting 10 measures I would call them.</p> <p>11 Q. When the hotel reopened in 2008 who 12 were the bartenders that worked under your 13 supervision if you remember?</p> <p>14 A. I remember a few people off the top 15 of my head. There was Laura, Heather, Rob, 16 there was Scott. That's all I remember off 17 the top of my head.</p> <p>18 Q. Did you ever have any conversations 19 with Carlos Rivera regarding his assignment 20 when the hotel reopened in 2008?</p> <p>21 A. Not that I remember, no.</p> <p>22 Q. Did you ever have any conversations 23 -- strike that. Do you know where Carlos 24 Rivera was assigned to work when the hotel 25 reopened?</p>	<p style="text-align: right;">Page 16</p> <p>1 A. Evangelista 2 would have assumed that he had them with 3 his manager in the Palm Court and not with 4 me. 5 Q. Did you have any conversations with 6 Rajan Lai regarding appointing Carlos 7 Rivera to work at one of your bars that you 8 were in charge of? 9 A. No, I don't remember to be honest. 10 Q. One more second. Let me find 11 something. Now, Robert Canyon, did he work 12 for you?</p> <p>13 A. Yes. 14 Q. So he worked with you at which bar? 15 A. He worked in the Rose Club and the 16 Champagne Bar. 17 Q. Just so that we're clear for the 18 record, we're talking about beginning in 19 2008? 20 A. Yes. 21 Q. Did you know Robert Canyon prior to 22 2008? 23 A. Yes. 24 Q. How did you know him? 25 A. Rob worked at Gin Lane which was a</p>
<p style="text-align: right;">Page 15</p> <p>1 A. Evangelista 2 A. He was assigned to work in the Palm 3 Court which was not one of my areas that 4 was under my supervision. 5 Q. Did you ever have any conversations 6 with Liam Flanagan regarding Carlos Rivera 7 working at the Palm Court? 8 A. No. I had a conversation with Liam 9 Flanagan about Liam working in the Palm 10 Court. 11 Q. What was discussed? 12 A. I think he made a reference as to 13 why he was working in the Palm Courts. I 14 had told him I'm not quite sure. I'm not 15 really responsible for these decisions, but 16 I could certainly bring it up to my boss 17 who was Carlos Bueno and see what we can 18 do. 19 Q. Did you ever have any conversations 20 with Rajan Lai regarding Carlos Rivera 21 working at the Palm Court? 22 A. No, not that I remember. Again, 23 Carlos was assigned to the Palm Court so 24 for me I was focused on the Rose Club and 25 the Champagne Bar. Any conversations I</p>	<p style="text-align: right;">Page 17</p> <p>1 A. Evangelista 2 restaurant that I managed. 3 Q. How long did you know him prior to 4 2008? 5 A. About a year. About a year and a 6 half. 7 Q. Was he a new employee in 2008 at the 8 Plaza? 9 A. At the Plaza, yeah, he was a new 10 employee. Absolutely. 11 Q. Were you familiar with his work 12 experience prior to him working at the 13 Plaza? 14 A. Yes. 15 MR. McLANE: Other than what 16 he's already testified to? 17 MR. ZAPATA: Yes. 18 MR. McLANE: Other than what 19 you've already testified to that 20 year and a half or so. 21 MR. ZAPATA: All he said was 22 that he had known him for a year 23 and a half prior to. What I asked 24 him was, was he familiar with his 25 work experience.</p>

<p style="text-align: right;">Page 18</p> <p>1 A. Evangelista 2 MR. McLANE: I think his 3 testimony is that he worked at Gin 4 Lane but he can answer. 5 A. At the time, yes. I think if I 6 remember correctly he worked at Jean 7 Georges or a very prominent bar or 8 something like that. I had read his resume 9 obviously and that's why we hired him at 10 Gin Lane. I would have known his 11 background at that point. I don't remember 12 it now. 13 Q. How about Prather Rehm? Do you know 14 who she is? 15 A. Yes. 16 Q. Who is she? 17 A. She's a girl who worked in the 18 Champagne Bar at the Rose Club. 19 Q. Under your supervision? 20 A. Yes. 21 Q. Prior to 2008 did you know Prather 22 Rehm? 23 A. No, I did not. 24 Q. Were you familiar with her work 25 experience at the time that she was hired?</p>	<p style="text-align: right;">Page 20</p> <p>1 A. Evangelista 2 Bar at the Rose Club. 3 Q. Under your supervision? 4 A. Yes. 5 Q. Did you know him prior to 2008? 6 A. No. 7 Q. Were you familiar with his work 8 experience when he was hired to work at the 9 Champagne Bar and the Rose Club? 10 A. Yes, through his resume. 11 Q. Do you have any independent 12 recollection of what was on his resume? 13 A. Today I do not, no. 14 Q. How about Laura Switzer? Do you 15 know who she is? 16 A. Yes. 17 Q. Who is she? 18 A. She is a bartender for the Rose Club 19 and Champagne Bar. 20 Q. Did you know her prior to 2008? 21 A. No. 22 Q. Were you familiar with her work 23 experience at the time that she was hired? 24 A. Through her resume, yes. 25 Q. Did you ever have any disciplinary</p>
<p style="text-align: right;">Page 19</p> <p>1 A. Evangelista 2 A. Yes, although I don't remember it 3 now. 4 Q. Prather Rehm, she was a new 5 employee, correct? 6 A. Yes. 7 Q. Heather Buesing, did you know her 8 prior to 2008? 9 A. No. 10 Q. Where did she work in 2008? 11 A. In the Champagne Bar at the Rose 12 Club. 13 Q. Were you familiar with her work 14 experience prior to her working at the Rose 15 Club or the Champagne Bar? 16 A. Yes, through her resume. 17 Q. Do you remember what was on her 18 resume? 19 A. I don't remember it now, no. 20 Q. Hold on for a second. How about 21 Shawn O'Toole? Do you know who Shawn 22 O'Toole is? 23 A. Yes. 24 Q. Who is he? 25 A. He was a bartender in the Champagne</p>	<p style="text-align: right;">Page 21</p> <p>1 A. Evangelista 2 problems with Robert Canyon? 3 A. Yes. 4 Q. What happened? 5 A. The specifics I don't remember. 6 It's all on file. Specifically I don't 7 remember but he was -- I do remember there 8 were some write-ups or documentation done 9 on him which I imagine are in his file. 10 Q. How about his day-to-day work 11 performance? How would you characterize 12 it? 13 A. I was disappointed in Rob. 14 Q. How about Prather Rehm? Did you 15 have any disciplinary problems with her? 16 A. Yes. 17 Q. Can you please elaborate? 18 A. Again, I don't remember the 19 specifics but her work ethic was not up to 20 par with a five-star hotel and the 21 documentation was made and it's in her 22 file. 23 Q. Do you know whatever happened to 24 Robert Canyon? 25 A. I think I believe when I left -- no,</p>

<p style="text-align: right;">Page 22</p> <p>1 A. Evangelista 2 I don't remember. I think he was 3 terminated by my boss Carlos Bueno. 4 Q. How about Prather Rehm? 5 A. I believe she was terminated as 6 well. 7 Q. Mr. Evangelista, when was the last 8 time you worked at the Plaza Hotel? 9 A. The last time I worked at the Plaza 10 Hotel, January 2010. 11 Q. When was the last time you were in 12 New York? 13 A. December 2010. December 14th or 14 around that time. 15 Q. You haven't been back in New York 16 recently? 17 A. I wish I could but no. 18 MR. ZAPATA: That's strange. 19 MR. McLANE: Do you want to 20 apologize to me -- 21 MR. ZAPATA: I'm sorry, 22 Bill. 23 Q. Give me a few more minutes. I think 24 I'm almost done. 25 A. No problem.</p>	<p style="text-align: right;">Page 24</p> <p>1 A. Evangelista 2 A. No. 3 Q. During your first tenure at the 4 Plaza this period of time we're talking 5 about between 2001 and around 2004 when you 6 were working -- specifically when you were 7 working on the floor of the Oak Bar did you 8 have any responsibility with the 9 classification of the employees working 10 behind the bar? 11 A. No. 12 Q. Did you have any reason to know the 13 classifications of the employees behind the 14 bar? 15 A. No. 16 Q. Did you ever ask anybody about what 17 classifications the employees who worked 18 behind the bar were? 19 A. No. 20 Q. Were you familiar with the 21 classification of private-room dining? 22 A. Not really, no. 23 Q. Were you familiar with any 24 classifications other than bartender with 25 respect to the Oak Bar if you even knew</p>
<p style="text-align: right;">Page 23</p> <p>1 A. Evangelista 2 Q. Did you ever tell Carlos Rivera that 3 he was being demoted on or around 2008? 4 A. No. 5 Q. Mr. Evangelista, how many 6 classifications of bartender were there in 7 2008 at the Plaza Hotel? 8 A. I think -- I believe there was one. 9 Q. Did you ever have any conversations 10 regarding Carlos Rivera's classification 11 with Nancy Bravo? 12 A. I don't think so, no. 13 Q. I have no further questions. 14 MR. McLANE: I have a few. 15 EXAMINATION BY 16 MR. McLANE: 17 Q. Anthony, during your employment at 18 the hotel did you ever have any 19 responsibility with respect to the recall 20 provisions of the collective bargaining 21 agreement? 22 A. No. 23 Q. Did you ever have any authority or 24 responsibility with recall provisions with 25 the city hall agreement?</p>	<p style="text-align: right;">Page 25</p> <p>1 A. Evangelista 2 that title? 3 A. From my knowledge, no, I didn't. 4 Q. Who -- strike that. Are you aware 5 that Mr. Rivera had been written up at the 6 Plaza Hotel? 7 A. No. I haven't personally been 8 involved in any write-ups for him so I 9 wouldn't know. 10 Q. Did you ever supervise Mr. Rivera? 11 A. Yes, I did. 12 Q. When was that? 13 A. Well, at some point he did 14 eventually work in the Rose Club and the 15 Champagne Bar along with Liam Flanagan as 16 well. That's when I supervised him. 17 Q. Do you know the circumstances upon 18 which Mr. Rivera wound up working under 19 your supervision? 20 A. No. 21 Q. Mr. Zapata gave you a list of names 22 of the bartenders who worked in the Rose 23 Club and the Champagne Bar. Did you hire 24 any of those bartenders yourself? 25 A. Myself, no.</p>

<p style="text-align: right;">Page 26</p> <p>1 A. Evangelista 2 Q. Other than the disciplinary problems 3 with respect to Mr. Prather in your 4 estimation was he a good bartender? 5 A. Which person are we talking about? 6 Prather Rehm? 7 Q. No. I'm talking about -- I think I 8 got his name wrong. 9 A. Robert Canyon? 10 Q. Yes, Canyon. I'm sorry. 11 A. Yes. He was a very good bartender 12 but he didn't have the discipline to work 13 in a five-star hotel. 14 Q. That came to light after he was 15 hired at the Plaza? 16 A. Yes, absolutely. 17 Q. Are you -- strike that. You were 18 not at the Plaza Hotel when it closed in 19 2005? 20 A. I was not. 21 Q. Am I correct that up until the time 22 that you left the hotel you were making the 23 schedule for the bartenders in the Rose 24 Club and the Champagne Bar? 25 A. No, I was moved. I did make the</p>	<p style="text-align: right;">Page 28</p> <p>1 A. Evangelista 2 proficiency? 3 MR. ZAPATA: Well, I'm 4 asking for more documents. 5 MR. McLANE: No. I'm saying 6 did you also send a proficiency 7 letter? I got a correspondence 8 from you so I think it was on 9 Friday. 10 MR. ZAPATA: Yeah, that's 11 it. 12 MR. McLANE: We do have that 13 letter. 14 MR. ZAPATA: What I'm asking 15 for is the resumes from the Bueno 16 deposition. 17 MR. McLANE: Okay. The 18 resumes for the people that you 19 just identified? 20 MR. ZAPATA: Yeah. 21 MR. McLANE: We'll see what 22 we can dig up. 23 MR. ZAPATA: 24 Mr. Evangelista, thank you very 25 much for your cooperation.</p>
<p style="text-align: right;">Page 27</p> <p>1 A. Evangelista 2 schedules -- the last year or the last 3 eight months of my employment I was 4 promoted to in-room dining director so I 5 moved positions. 6 Q. While you were the director who did 7 you report directly to? 8 A. Carlos Bueno. 9 Q. That's all I have. Thanks. 10 MR. ZAPATA: Bill, before we 11 get off did you get my letter 12 regarding the resume? 13 MR. McLANE: No. 14 MR. ZAPATA: I sent it to 15 you via overnight FedEx. It's a 16 letter asking for the resumes of 17 the individuals that were hired. I 18 believe my office sent it to you via 19 e-mail as well on Friday. You 20 should have received the letter on 21 Friday. It was sent to you on 22 Thursday night FedEx. You should 23 have gotten it Friday FedEx. 24 MR. McLANE: Is it contained 25 in the letter where you have the</p>	<p style="text-align: right;">Page 29</p> <p>1 THE WITNESS: Thank you. 2 MR. ZAPATA: All right. 3 Have a good night. 4 (Time noted: 9:40 p.m.) 5 ----- 6 ANTHONY EVANGELISTA 7 Subscribed and Sworn to before me 8 This day of 2011 9 ----- 10 NOTARY PUBLIC 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

		Page 30		Page 32
		ERRATA SHEET		
		PAGE/LINE	CORRECTION	
1		2		
2	EXAMINATIONS:	3		
3	EXAMINATION BY	4	8	
4	MR. ZAPATA	5		
5	EXAMINATION BY	6	15	
6	MR. McLANE	7		
8		8		
9		9		
10		10		
11		11		
12		12		
13		13		
14		14		
15		15		
16		16		
17		17		
18		18		
19		19		
20		20		
21		21		
22		22		
23		23		
24		24		
25		25		
		Page 31		
1		C E R T I F I C A T E		
2		I, LESLIE CHRISTIAN, hereby certify		
3		that the Examination Before Trial of		
4		ANTHONY EVANGELISTA was held before me on		
5		the 20th day of June, 2011; that said		
6		witness was duly sworn before the		
7		commencement of his testimony; that the		
8		testimony was taken stenographically by		
9		myself and then transcribed by myself; that		
10		the party was represented by counsel as		
11		appears herein;		
12		That the within transcript is a true		
13		record of the Examination Before Trial of		
14		said witness;		
15		That I am not connected by blood or		
16		marriage with any of the parties; that I am		
17		not interested directly or indirectly in		
18		the outcome of this matter; that I am not		
19		in the employ of any of the counsel.		
20		IN WITNESS WHEREOF, I have hereunto set		
21		my hand this _____ day of _____, 2011		
22				
23				
24				
25		LESLIE CHRISTIAN		

Exhibit “E”

2 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

3 ----- x

CARLOS RIVERA,

4

Plaintiff, Index No.

5 10-CIV-6611 (WHP)

6 -against-

7 PLAZA ACCESSORY OWNERS, LP, et al.,

8 Defendants.

----- x

9

10 EXAMINATION BEFORE TRIAL of the Defendant,
11 PLAZA ACCESSORY OWNERS, LP, et al., by RAJAN
12 LAI, taken by the Plaintiff, pursuant to Court
13 Order, held at the offices of Barrister
14 Reporting Service, Inc., 120 Broadway, Suite
15 1111, New York, New York, on May 3, 2011, at
16 10:10 a.m., before a Notary Public of the State
17 of New York.

18

19

20

21

22 *****

23 BARRISTER REPORTING SERVICE, INC.

120 Broadway

24 New York, N.Y. 10271

212-732-8066

25